



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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August 24, 2009

DERYL MCCARTY
15508 130TH AVENUE COURT EAST
PUYALLUP WA 98374

Subject: Complaint Filed Against Fuse Washington – PDC Case No. 09-047

Dear Mr. McCarty:

The Public Disclosure Commission (PDC) staff has completed its investigation of your complaint received October 7, 2008, alleging that Fuse Washington: (1) Acted as an unregistered political committee by soliciting money to support and oppose candidates; (2) Engaged in unreported internet, independent expenditure, activity opposing Dino Rossi, a 2008 candidate for Governor; and (3) Made unreported grassroots lobbying expenditures. PDC staff reviewed the allegations in light of the following statutes:

RCW 42.17.020 defines “political committee” as any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition. **RCW 42.17.040** requires political committees to register with the PDC. **RCW 42.17.080 and .090** require political committees under the full reporting option to file timely, accurate reports of contributions and expenditures.

RCW 42.17.100 defines “independent expenditure” for the purposes of RCW 42.17.100 and .550 to mean any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17.060, .080, or .090.

RCW 42.17.200 states that any person who has made expenditures, not reported by a registered lobbyist or by a candidate or political committee, exceeding \$1,000 in the aggregate within any three-month period or exceeding \$500 in the aggregate within any one-month period in presenting a program addressed to the public, a substantial portion of which is intended, designed, or calculated primarily to influence legislation shall be required to register and report as a sponsor of a grass roots lobbying campaign.

We reviewed your complaint, Fuse Executive Director Aaron Ostrom’s response to the complaint, and C-3, C-4, and C-6 reports filed by Fuse Votes, a political committee affiliated with Fuse Washington. We also spoke with Mr. Ostrom. As a result of our review, we found:



I.

Alleged Unregistered Political Committee Activity

- Fuse Washington is a non-profit corporation registered with the Secretary of State and licensed with the Washington State Department of Licensing. Fuse Washington is also organized as a tax-exempt social welfare organization under Internal Revenue Code (IRC) section 501(c)(4). To be organized under IRC section 501(c)(4), an organization must not be organized for profit and must be operated exclusively to promote social welfare.
- Fuse Washington has an affiliated political committee, Fuse Votes, and on June 20, 2008, Fuse Votes filed a Political Committee Registration (PDC Form C-1pc) with the PDC.
- Eighteen contributors donated a total of \$57,773 to Fuse Votes during 2008. Of this total, Fuse Washington donated \$5,000. During 2008, Fuse Washington reported income of \$196,852 and expenses of \$145,204. Income derived from solicitations made on the Fuse Washington website totaled \$1,925. No evidence was found that contributions received through the Fuse Washington website were solicited for or allocated to Fuse Votes. No evidence was found that Fuse Washington operated as an unregistered political committee.

II.

Alleged Unreported Internet, Independent Expenditure, Activity

- You provided three examples of alleged unreported internet, independent expenditure activity by Fuse Washington, which you described as "election related" as follows:
 1. An email from Fuse Washington, sent by Cheryl Murfin, Fuse Washington's Communications Director, addressing Dino Rossi's opposition to "a woman's right to choose";
 2. An email from Fuse Washington, sent by Aaron Ostrom, Fuse Washington's Executive Director, announcing that Dino Rossi was caught in an illegal "Buildergate" scandal; and
 3. An electronic copy of the "Fuse Primary Voter's Guide" that was posted on Fuse Washington's website.
- The cost to a political committee that is associated with purchasing an email address list is a reportable expenditure. However, no evidence was found that Fuse Washington purchased email address lists, that Fuse Washington is a political committee, or that the emails cited in your complaint were contributions to the Rossi campaign. In addition, through PDC Interpretation 07-04, the Commission stated that because it has not been provided information that "mass emails" are used in Washington State campaigns as a "means of mass communication" under the statutory definition of political advertising, or have

presented disclosure or reporting issues or complaints, or other issues regarding reportable expenditures, they are taking a "wait and see" approach with respect to any further regulatory provisions regarding emails.

- In addition, neither the emails nor the website posting of the "Fuse Primary Voter's Guide" met the dollar threshold for an independent expenditure. No evidence was found that these activities were contributions to a candidate, or that they were otherwise reportable.

III.

Alleged Unreported Grassroots Lobbying Activity

- You alleged that Fuse Washington led grassroots lobbying efforts in 2008 and failed to file as a grassroots lobbying organization. You provided an email asking recipients to sign a petition encouraging the governor to sign "progressive legislation" passed by the legislature. You cited a web page allowing the viewer to send a message to his or her state legislator encouraging passage of bills concerning global warming. You also cited a web page allowing the viewer to send a message asking his or her State Senator to support the Children's Product Safety Act."
- The cost of the email and website postings cited in your complaint did not meet the dollar threshold for reporting a grassroots lobbying campaign. While the specific action you refer to in your complaint does not reach the reporting threshold, Fuse Washington has engaged in a reportable grassroots lobbying campaign in 2009 and has reported its activities on PDC form L-6.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation, and with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against Fuse Washington. Fuse Washington is being notified of this dismissal by separate letter.

Thank you for bringing this matter to our attention. The process relies on citizens monitoring campaign activity to promote full compliance with the law. Your actions will contribute to better awareness of the Public Disclosure Law.

If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853, toll-free at 1-877-601-2828 or by e-mail at pstutzman@pdc.wa.gov.

Sincerely,


Vicki Rippie
Executive Director